

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SAM J. IANNOLO,

Plaintiff,

-against-

MICHAEL J. ASTRUE, Commissioner of Social
Security,

Defendant.
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USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: FEB 16 2012

FEB 16 2012

10-CV-7602 (JPO) (JCF)

ORDER

J. PAUL OETKEN, District Judge:

Plaintiff Sam J. Iannolo brings this action pursuant to section 405(g) of the Social Security Act, 42 U.S.C. § 405(g), seeking to appeal the decision of Defendant, the Commissioner of Social Security, finding that Plaintiff is not entitled to disability insurance benefits. The parties each filed cross-motions for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Magistrate Judge James C. Francis IV subsequently issued a Report and Recommendation (the "Report"), dated January 11, 2012, recommending that Plaintiff's motion be denied and Defendant's motion granted, and judgment be entered in favor of Defendant. No objection to the Report has been filed.

When reviewing a report and recommendation, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Wilds v. United Parcel Service, Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (internal citations and quotation marks omitted). If a party fails to make a timely objection

to a report, that party waives their right to object and appellate review of the district court's decision adopting the report, absent unusual circumstances, is precluded. *See United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir.1997).

Since no party filed a timely objection to the Report, the Court reviews it for clear error. After a careful review of the Report, the Court is satisfied that the Report contains no clear error on the face of the record. Accordingly, the Court hereby adopts the Report's recommendation in its entirety. Defendant's motion for judgment on the pleadings (Dkt. No. 16) is hereby granted, and Plaintiff's motion for judgment on the pleadings (Dkt. No. 12) is hereby denied. The Clerk of Court is directed to enter judgment accordingly and close this case.

SO ORDERED.

Dated: New York, New York
February 15, 2012



J. PAUL OETKEN
United States District Judge